

# POST-CONVICTION REFORM AMENDMENT

# UTAH'S DEATH ROW

MURDERER	MURDER DATE	CONVICTION DATE	PRESENT STATUS	YEARS PENDING
RONNIE LEE GARDNER	1984	1985	Federal habeas appeal	22
DOUGLAS CARTER	1985	1986; resentenced 1992	Federal habeas; successive state petition	15 (from re-trial); 21 (from original trial)
VON LESTER TAYLOR	1990	1991	Federal habeas	16
MICHAEL ARCHULETA	1988	1989	State post-conviction appeal	19
RONALD LAFFERTY	1984	1985/1996 (re-trial)	State post-conviction appeal	11 (from re-trial); 22 (from original trial)
TROY KELL	1994	1996	State post-conviction appeal	11
RALPH MENZIES	1986	1988	State post-conviction	19
TABERONE HONIE	1998	1999	State post-conviction	8
DOUGLAS LOVELL	1985	1992	Direct appeal (3 <sup>rd</sup> )	15

# AMENDMENTS

- PACKAGE OF:
- Constitutional amendments; and
- Statutory amendments

# PURPOSE OF THE COMBINED AMENDMENTS

- Restore the Post-Conviction Remedies Act's ideal balance between:
  - providing convicted persons with a generous opportunity to seek relief for serious constitutional errors in their convictions or sentences; and
  - giving to the State and crime victims the finality and closure to which they are entitled.
- Restoring this balance will:
  - end redundant and unnecessary federal and state review; and
  - particularly in death-penalty cases, put an end to abusive practices that have made the delay in those cases acute.

# PROPOSED STATUTORY AMENDMENTS

The existing and proposed legislation:

Gives the convicted person a full and fair opportunity to seek relief from his conviction or sentence for state and federal constitutional defects in either.

Bars relief when the convicted person unreasonably delays seeking relief.

Relies on preclusion rules that will prevent redundant federal and state review.

# INNOCENCE

- A CONVICTED PERSON MAY RAISE A CLAIM OF FACTUAL INNOCENCE AT ANY TIME:
- Under the proposed amendments, no preclusion or time-bar rules apply to factual innocence claims.

# NEED FOR CONSTITUTIONAL AMENDMENT

- The constitutional amendment will give the statutory scheme full effect.

# THE CONVICTION, SENTENCE, AND REVIEW

## CRIMINAL CASE

## CIVIL REVIEW

Appellate  
Courts:  
Error review  
by a  
superior  
court

United States  
Supreme Court



Direct appeal



Trial  
(District)  
Court

Trial:  
Penalty Phase  
Guilt Phase

United States  
Supreme Court



State  
post-conviction  
appeal



State  
post-conviction  
review

United States  
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Federal habeas  
corpus appeal



Federal habeas  
corpus review

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Federal Court





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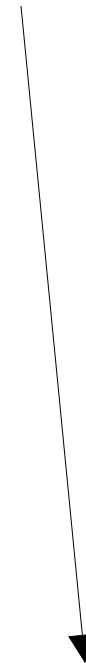
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# HOW THE SYSTEM SHOULD WORK

- TRIAL: should be and is the main event.
- Each layer of review after the trial should be narrower.

FEDERAL HABEAS CORPUS  
REVIEW



STATE POST-CONVICTION REVIEW



DIRECT REVIEW



TRIAL: THE MAIN EVENT

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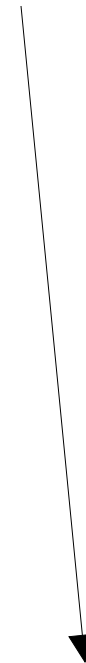
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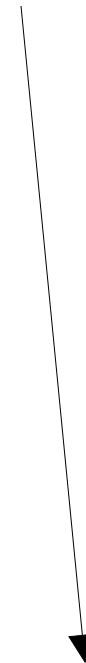
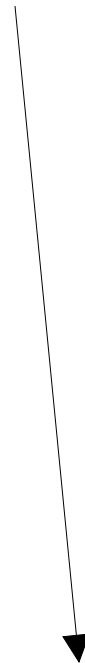
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# PCRA POST-CONVICTION REVIEW

- PCRA precludes relief for:
- Claims that have been previously raised and lost at trial, on direct appeal, or in a prior post-conviction petition.
- Claims that could have been but were not raised in a prior post-conviction petition.
- Claims that could have been, but were not raised at trial or on direct appeal unless the failure to raise them resulted from the ineffective assistance of trial or appellate counsel.
- Claims filed more than one year after the post-conviction action accrues, unless the “interests of justice” require affording a longer period.

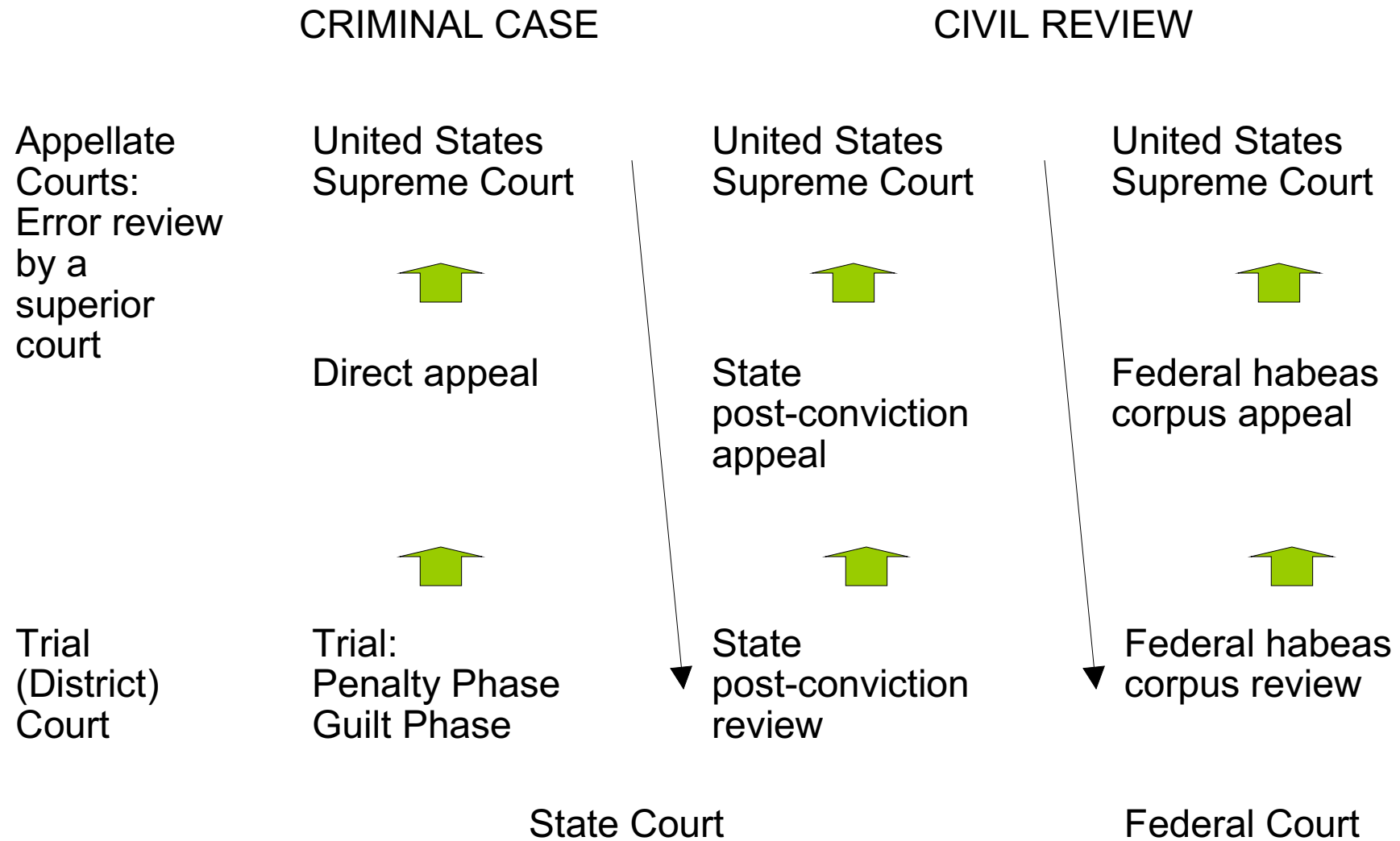
# OPERATION OF PCRA'S PRECLUSION RULES

- Permits review of a constitutional defect in a conviction or a sentence where the failure to raise the issue in criminal proceedings resulted from the separate constitutional violation of counsel's ineffective assistance.
- Promotes efficiency and avoids abusive litigation by requiring a person charged with and later convicted of a crime to bring all claims at the earliest possible time.
- Permits review where the facts supporting the claim were unknown at the time the petitioner otherwise should have raised it.
- Applies rules that will preclude redundant federal and state review.

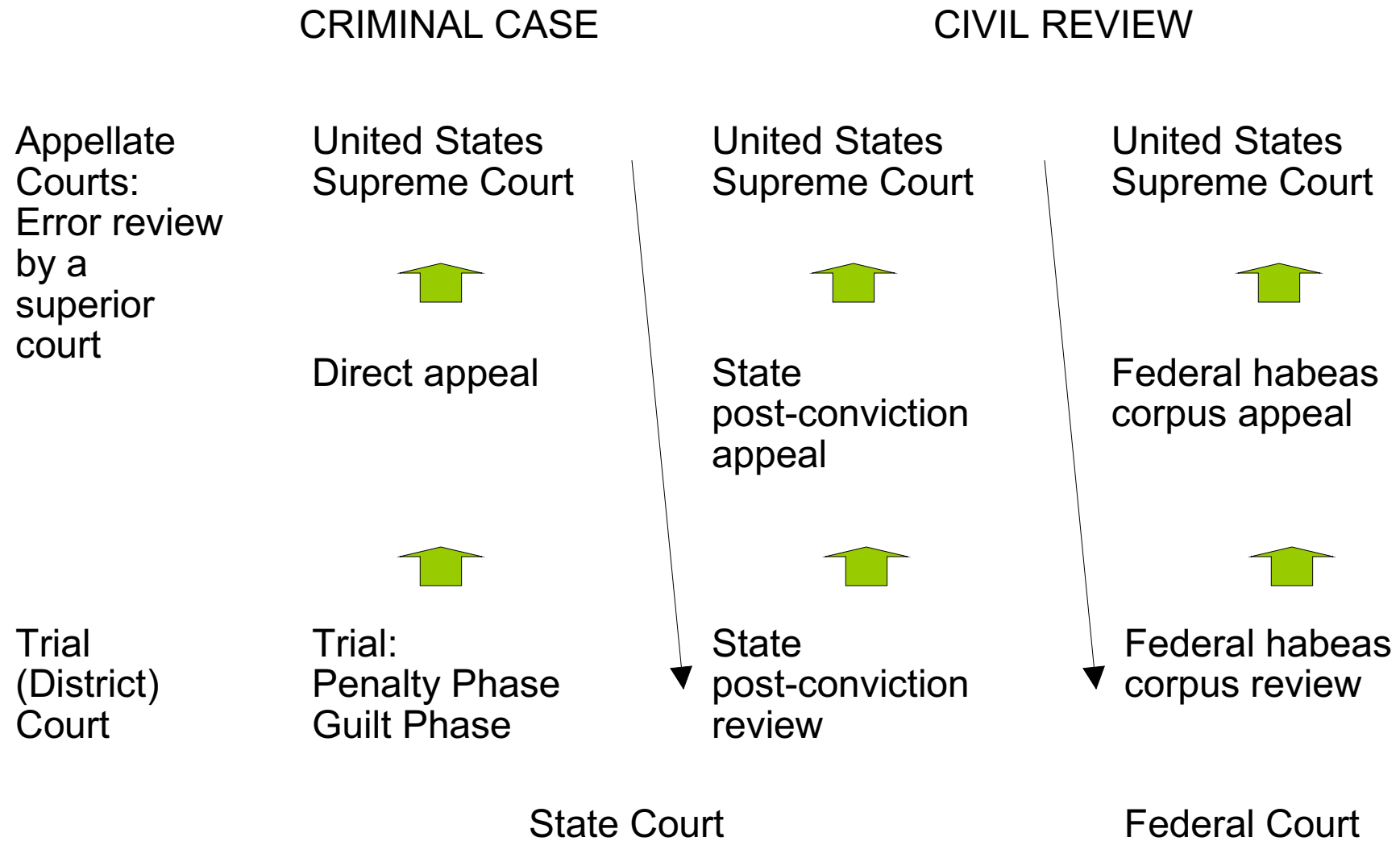
# CONSTITUTIONAL AMENDMENT

- ENSURES THAT THE POST-CONVICTION REMEDIES ACT'S PURPOSES ARE FULFILLED.

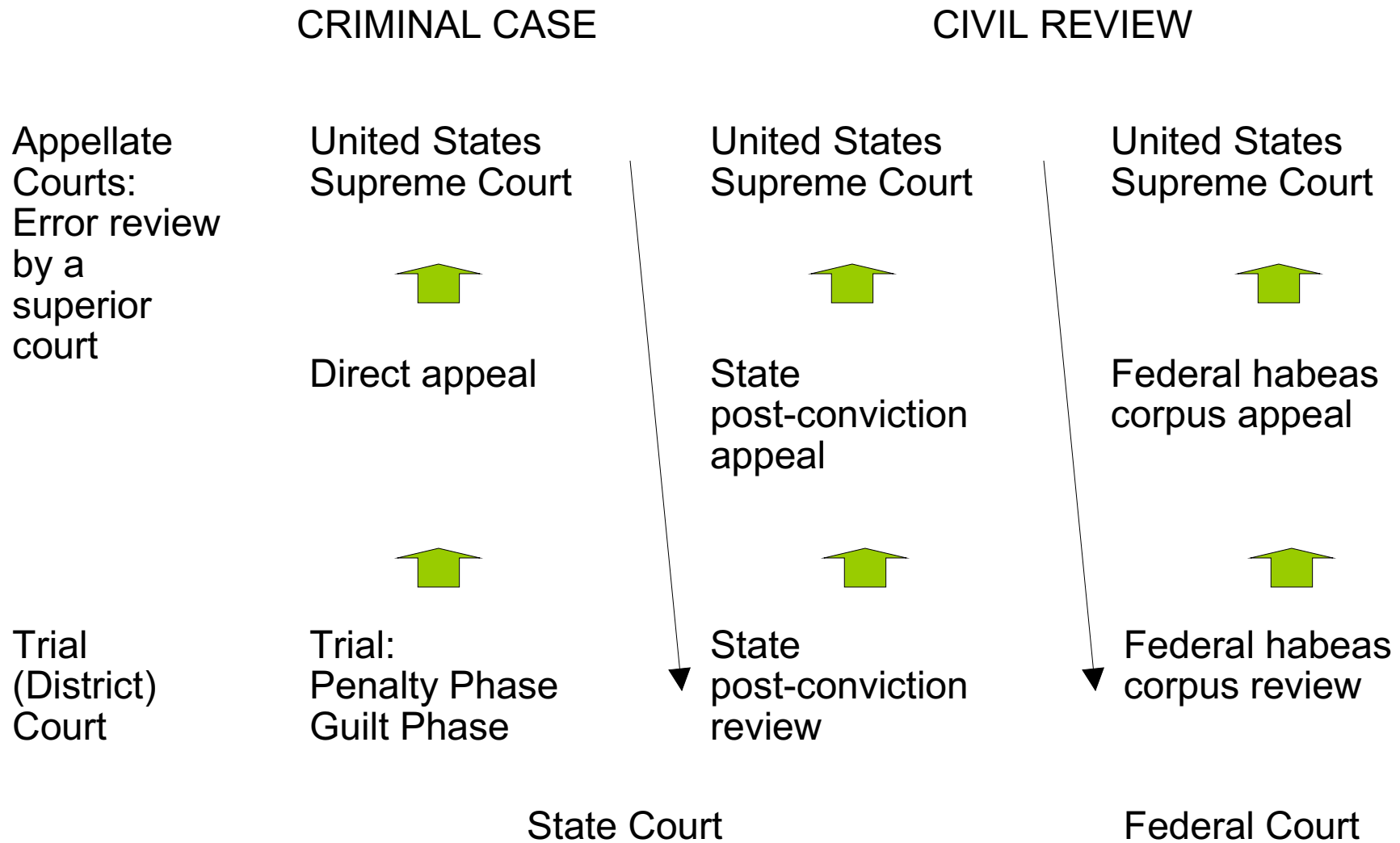
## RONNIE LEE GARDNER: PENDING 22 YEARS



## DOUGLAS STEWART CARTER: PENDING 22 YEARS

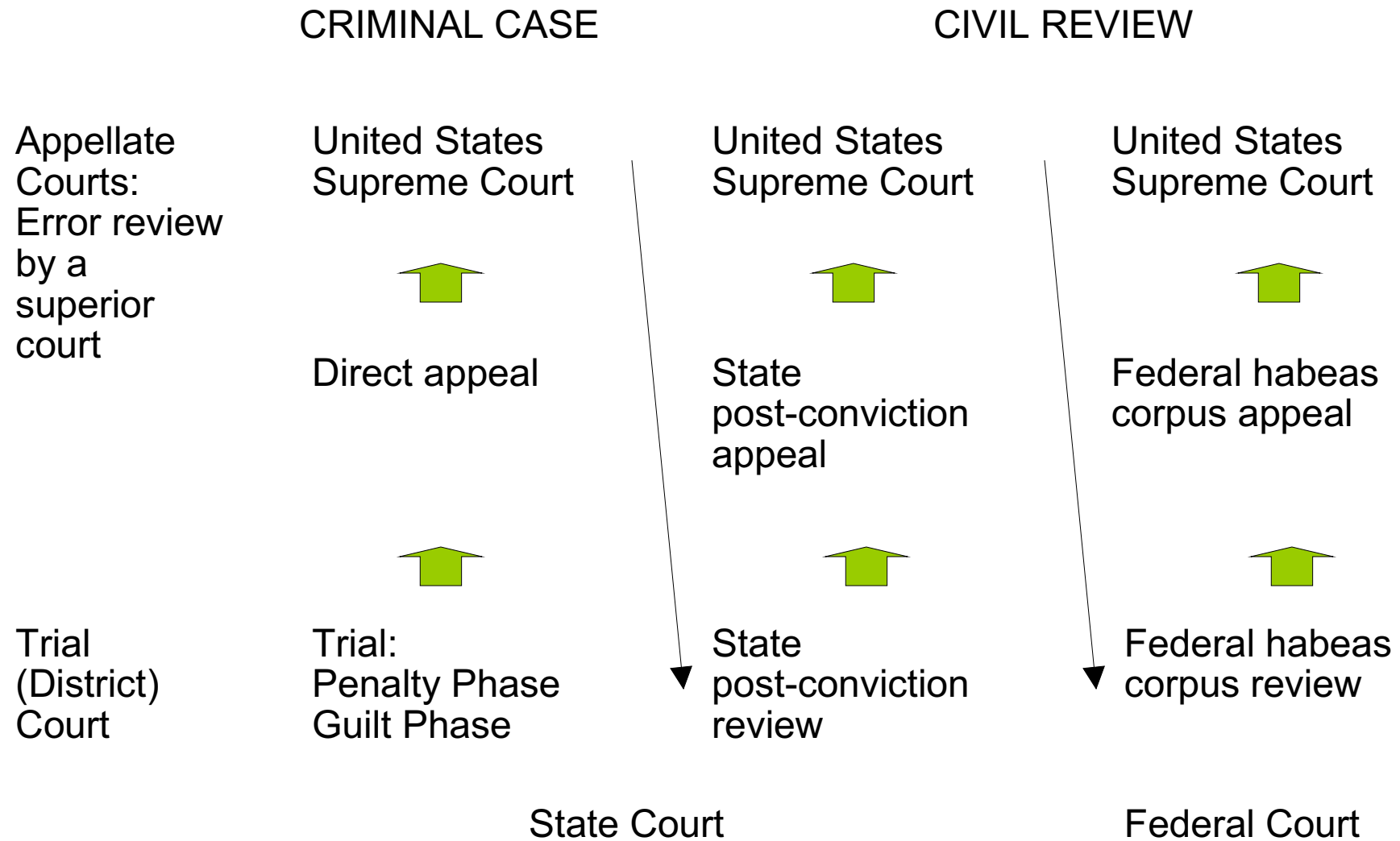


## VON LESTER TAYLOR: 16 YEARS

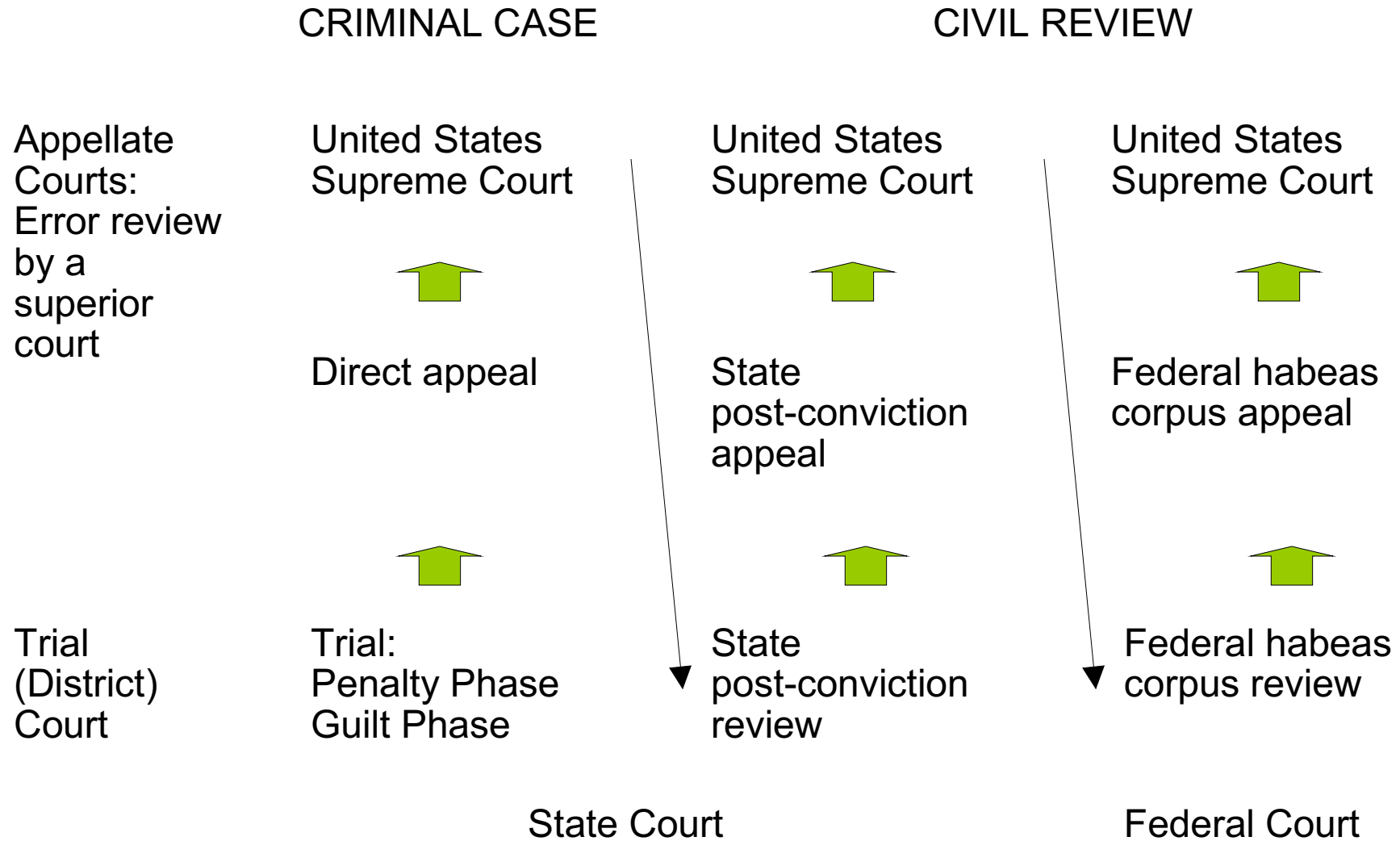




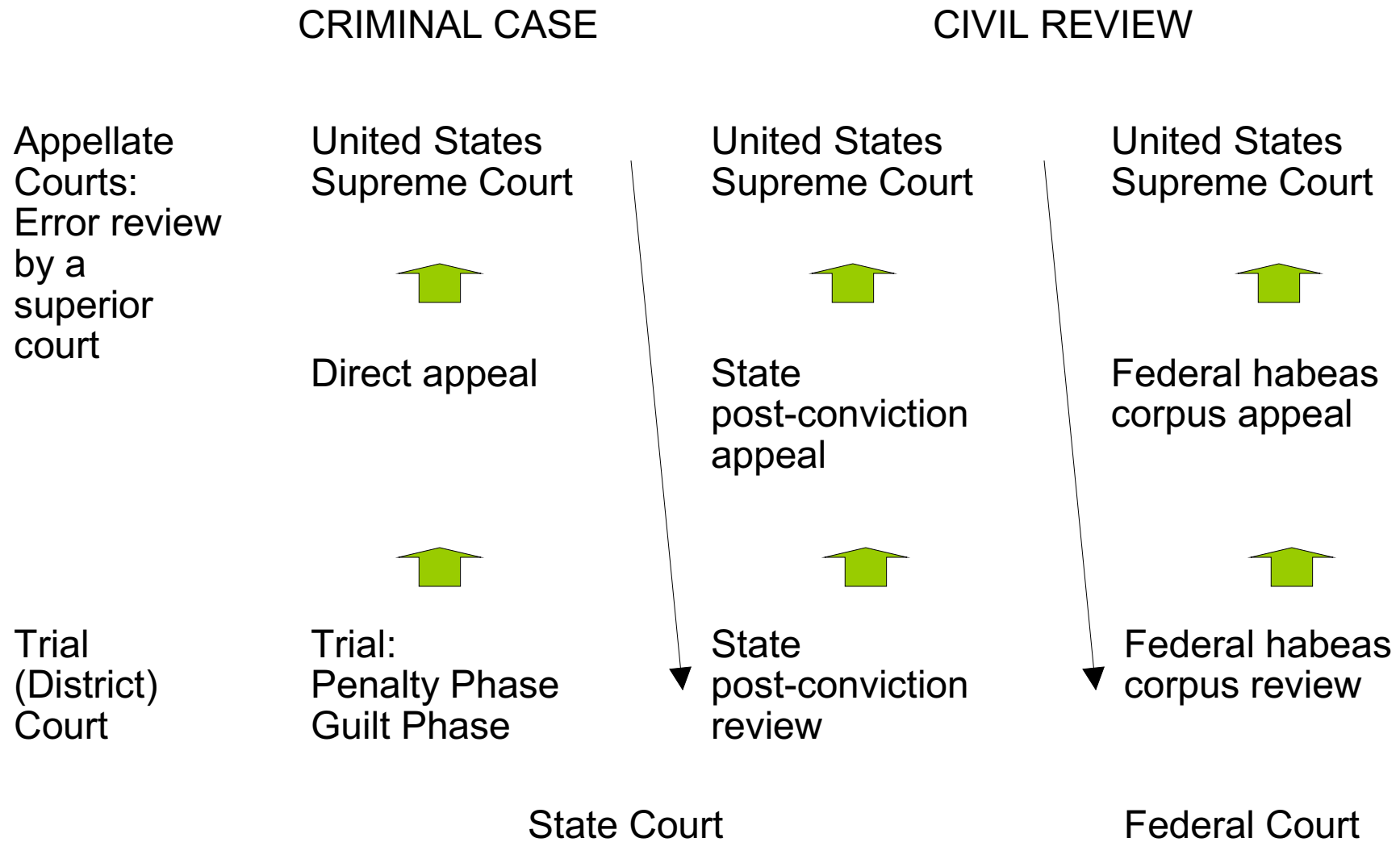
# MICHAEL ANTHONY ARCHULETA: PENDING 19 YRS



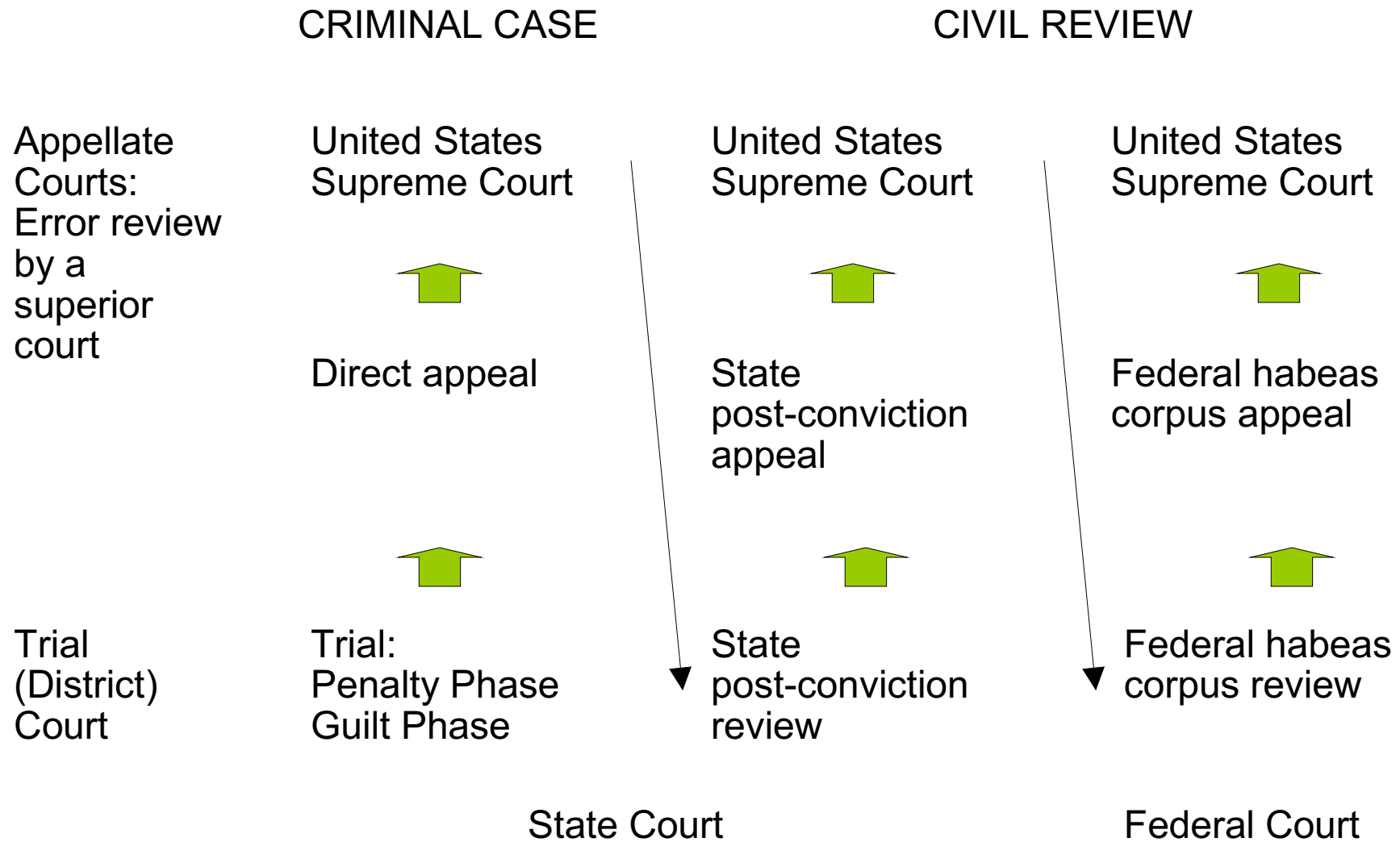
# RONALD WATSON LAFFERTY: PENDING 11 YEARS (FROM RE-TRIAL)



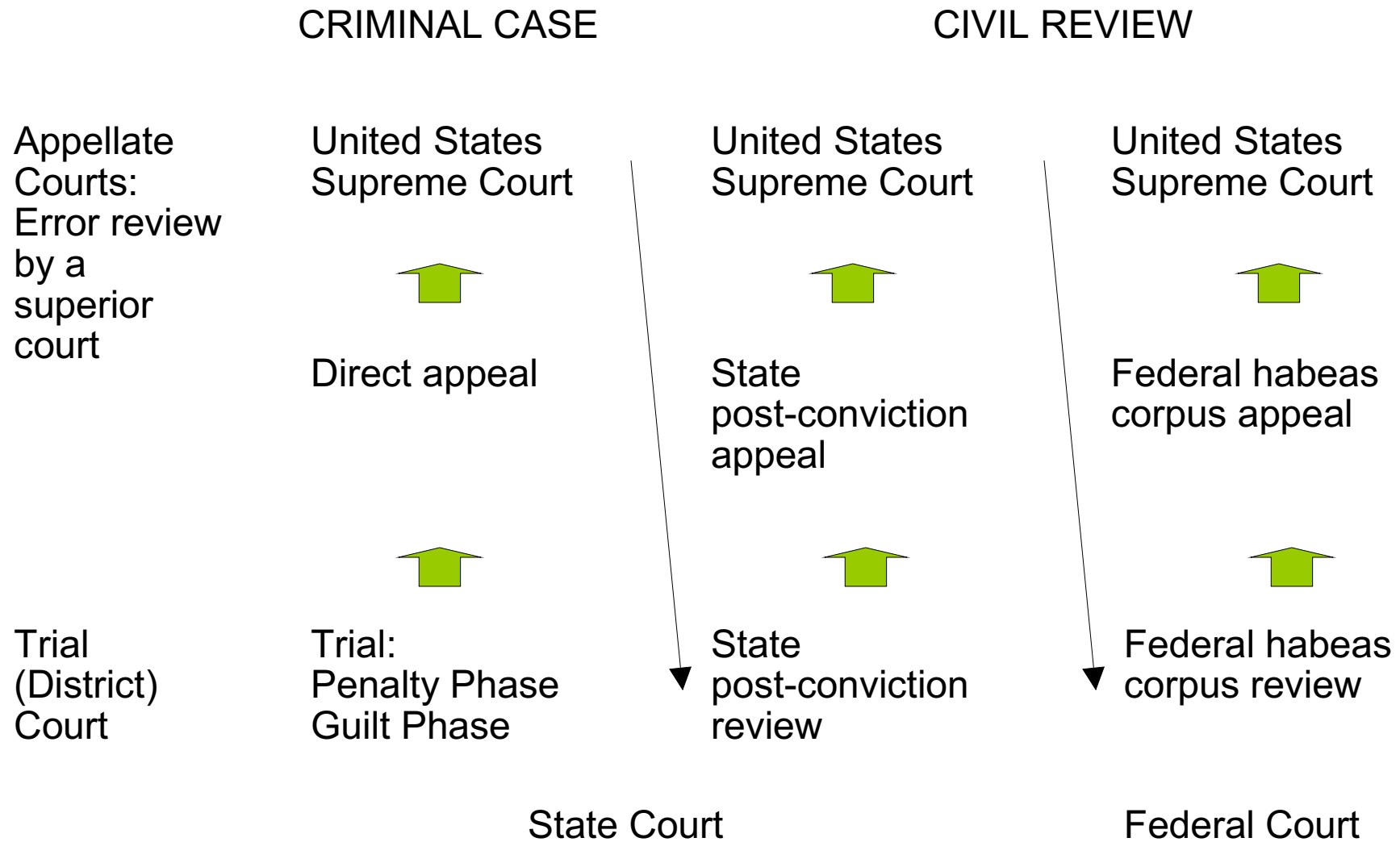
## TROY MICHAEL KELL: PENDING 11 YEARS



## RALPH LEROY MENZIES: PENDING 19 YEARS



## TABERONE DAVE HONIE: PENDING 8 YEARS



## DOUGLAS ANDERSON LOVELL: PENDING 15 YEARS

